REMARKS

A. Objections to Claims

In the Office Action mailed on April 29, 2004, claims 1 and 19 were objected to for failing to clarify that the beam of radiation was a beam of penetrating radiation. Applicant traverses the objection in that it is inherent from claims 1 and 19 that the beam of radiation is a beam of penetrating radiation. This is shown in original claims 1 and 19 with their recitation that a first portion of the beam of radiation is transmitted through an object. If the beam of radiation can be transmitted through an object the beam of radiation must be a beam of penetrating radiation.

Despite the improperness of the objection, claims 1 and 19 along with dependent claims 2, 7, 10 and 20-22 have been amended by replacing "beam of radiation" with "beam of penetrating radiation" as suggested by the Office Action. Accordingly, the objection should be withdrawn.

Since the amendments made to claims 1, 2, 7, 10, 19 and 20-22 are being made to clarify an inherent property of the recited beam of radiation and do not change the intended meaning of the claims, the amendments are not being made for reasons of patentability as defined in *Festo Corporation v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd*, 234 F.3d 558, 56 USPQ2d 1865 (Fed. Cir. 2000) (*en banc*), *overruled in part*, 535 U.S. 722 (2002).

B. **Obviousness-Type Double Patenting**

1. **Claims 1-17**

Claims 1-17 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being obvious in view of claims 1-24 of the '498 application. Applicant traverses this rejection. Claims 1-24 of the '498 application have been allowed and the issue fee is in the process of being filed. Accordingly, it appears that now is an appropriate time to address the merits of the rejection. A comparison of independent claims 1 of the present application and the '498 application is given below:

Claim 1: US Patent Application No. 10/035,025	Claim 1: US Patent Application No. 09/797,498
1. An imaging system comprising:	1. An imaging system comprising:
a radiation generator that generates a beam of penetrating radiation along a first direction;	a radiation generator that generates a beam of penetrating radiation along a first direction;
an object that receives said beam of penetrating radiation, wherein a first portion of	an object that receives said beam of radiation, wherein a first beam of radiation is

said beam of penetrating radiation is transmitted through said object along said first direction and a second portion of said beam of penetrating radiation is refracted along a second direction;	transmitted through said object along said first direction and a second beam of radiation is refracted by said object along a second direction;
an analyzer that receives said first and second portions of said beam of penetrating radiation, said analyzer suppresses the intensity of said first portion of said beam of penetrating radiation and transmits said second portion of said beam of penetrating radiation; and	a Fabry-Perot analyzer that receives said first and second beams of radiation, said Fabry-Perot analyzer suppresses the intensity of said first beam of radiation and transmits said second beam of radiation; and
a detector system that receives from said analyzer said suppressed first portion of said beam of penetrating radiation and said transmitted second portion of said beam of penetrating radiation and generates an image of said object.	a detector system that receives from said analyzer said suppressed first beam of radiation and said transmitted second beam of radiation and generates an image of said object.

As shown by the underlined portion above, claim 1 of the present application recites an analyzer that suppresses the intensity of a portion of the beam of penetrating radiation and transmits a second portion of the beam. Claim 1 of the '498 application recites a Fabry-Perot analyzer that suppresses the intensity of a beam of radiation and transmits a second beam of radiation. The question at hand is would it have been obvious to one of ordinary skill to replace the '498 application's claimed Fabry-Perot analyzer with any analyzer. There is no suggestion of such a replacement in claim 1 of the '498 application. Without such suggestion, the rejection is improper and should be withdrawn.

Comparing claim 1 of the present application with independent claim 10 of the '498 application reveals that the same clause regarding a Fabry-Perot analyzer. Accordingly, claim 10 of the '498 application does not render claim 1 of the present application as being obvious for the same reasons given above with respect to claim 1 of the '498 application.

A comparison between claim 1 of the present application with independent claim 19 of the '498 application is given below:

Claim 1: US Patent Application No. 10/035,025	Claim 19: US Patent Application No. 09/797,498
1. An imaging system comprising:	1. An imaging system comprising:

a radiation generator that generates a beam of penetrating radiation along a first direction;	a radiation generator that generates a beam of penetrating radiation along a first direction;
an object that receives said beam of penetrating radiation, wherein a first portion of said beam of penetrating radiation is transmitted through said object along said first direction and a second portion of said beam of penetrating radiation is refracted along a second direction;	an object that receives said beam of radiation, wherein a first beam of radiation is transmitted through said object along said first direction and a second beam of radiation is refracted by said object along a second direction;
an analyzer that receives said first and second portions of said beam of penetrating radiation, said analyzer suppresses the intensity of said first portion of said beam of penetrating radiation and transmits said second portion of said beam of penetrating radiation; and	an analyzer that receives said first and second beams of radiation, said analyzer suppresses the intensity of said first beam of radiation and transmits said second beam of radiation, said analyzer having a structure for generating a reflecting curve with multiple valleys or peaks;

	and
a detector system that receives from said analyzer said suppressed first portion of said beam of penetrating radiation and said transmitted second portion of said beam of penetrating radiation and generates an image of said object.	a detector system that receives from said analyzer said suppressed first beam of radiation and said transmitted second beam of radiation and generates an image of said object.

As shown by the underlined portion above, claim 1 of the present application recites an analyzer that suppresses the intensity of a portion of the beam of penetrating radiation and transmits a second portion of the beam. Claim 19 of the '498 application recites an analyzer that suppresses the intensity of a beam of radiation and transmits a second beam of radiation and has a "structure for generating a reflecting curve with multiple valleys or peaks." There is no suggestion in claim 19 to eliminate the limitation that the analyzer has a structure for generating a reflecting curve with multiple valleys or peaks. Without such suggestion, the rejection is improper and should be withdrawn.

2. **Claims 19-25**

Claims 19-25 were provisionally rejected under the judicially created doctrine of

obviousness-type double patenting as being obvious in view of claims 1-24 of the '498 application. Applicant traverses this rejection. Claims 19-25 of the present application regard a method of imaging an object. In contrast, claim 1-24 of the '498 application regard an imaging system. Since there is no motivation in claims 1-24 of the '498 application to transform themselves to methods of imaging an object, the rejection is improper and should be withdrawn.

C. **Claim 18**

It is noted that claim 18 has not been rejected based on the prior art or for obviousness-type double patenting. Accordingly, it appears that claim 18 has been indicated to contain allowable subject matter.

D. **Reasons for Allowance**

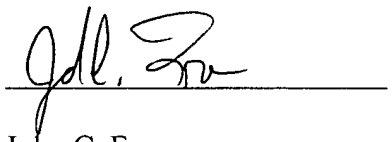
It is noted that the Office Action contains a statement of reasons for allowance of claims 1-25 over the prior art. Applicant traverses the statement in that there are other and broader reasons why the claims are patentable over the prior art. Applicant also traverses the statement in that it recites elements not present in some of the claims. For example, the statement refers to an analyzer while claim 19 does not recite an analyzer.

CONCLUSION

In view of the arguments above, Applicant respectfully submit that all of the pending claims 1-25 are in condition for allowance and seeks an early allowance thereof. If for any reason, the Examiner is unable to allow the application in the next Office Action and believes

that an interview would be helpful to resolve any remaining issues, she is respectfully requested to contact the undersigned attorneys at (312) 321-4200.

Respectfully submitted,



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